HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.5008 of 2007

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Between:

Young Women's Christian Association,
Secunderabad, represented by
its General Secretary. …Petitioner

And

Secunderabad Cantonment Board,
represented by its Executive Officer,
Secunderabad. ...Respondent.

:: O R D E R ::

Counsel for the petitioner : Sri V.V.M. Chary

Counsel for the respondent : Sri Srikanth Kaveti for
Sri Deepak Bhattacharjee.

13th March, 2007

Per G.S. SINGHVI, C.J.

In this petition, the petitioner has prayed for quashing notice dated 9-1-2007 issued by Executive Officer, Secunderabad Cantonment Board under Section 91 of the Cantonments Act, 1924 for payment of property tax amounting to Rs.26,87,820/-.

The petitioner is a society registered under the Societies Registration Act, 1860. It has been maintaining women's hostel and is running several educational institutions. In the affidavit filed by her, Smt. Sujala, General Secretary of the petitioner association has averred that the activities of the society are charitable in character and by virtue of Section 111 of the Cantonments Act, 2006 (for short, 'the 2006 Act'), it is exempt from payment of property tax. She has then averred that in complete disregard of the statutory provisions relating to exemption, the Executive Officer, Secunderabad Cantonment Board has issued the impugned notice demanding huge amount of property tax.

Sri V.V.M. Chary argued that the demand created by the respondent is ex facie illegal and, therefore, notwithstanding the availability of alternative remedy under Section 93 of the 2006 Act, this Court should entertain the writ petition. He submitted that if the petitioner is burdened with huge liability of over Rs.26 lakhs, its activities relating to education will be adversely affected.

Sri Srikanth Kaveti, learned counsel for the respondent stated that property tax has been levied because the petitioner has constructed a commercial complex and is earning huge profits.

We have considered the submissions of the learned counsel. It is borne out from the record that in the year 2004, similar notice was issued to the petitioner for payment of property tax amounting to Rs.15,36,178/-. That notice does not appear to have been challenged by the petitioner by filing petition under Article 226 of the Constitution

of India.

In our opinion, the remedy of appeal provided under Section 93 of the 2006 Act, which forms part of the scheme of Chapter V, is an equally efficacious alternative remedy and there is no extraordinary reason for making departure from the settled law that the High Court will not entertain writ petition under Article 226 of the Constitution if an effective alternative remedy is available to the petitioner. The rule of alternative remedy has been recognised and applied by the Supreme Court in **A.V. Venkateshwaran v. R.S. Wadhwani**[1], **Thansingh Nathmal v. Superintendent of Taxes**[2], **Baburam v. Zilla Parishad**[3], **Champa Lal v. I.T. Commissioner**[4], **J.M. & Co. v. Agricultural I.T. Officer, Assam**[5], **C.I.T. v. Ramendra Nath Ghosh**[6], **Swadeshi Cotton Mills Co. Ltd., v. Government of U.P.**[7], **Gujarat University v. N.U. Rajguru**[8], **State of H.P. v. Raja Mahendra Pal**[9], **L.L. Sudhakar Reddy v. State of A.P.**[10], **State of Bihar v. Jain Plastics & Chemicals Ltd.,**[11], **Harbanslal Sahnia v. Indian Oil Corporation Ltd.,**[12] and **ABL International Ltd., v. Export Credit Guarantee Corporation of India Ltd.**[13]. This rule has been applied with greater rigor in cases involving levy, collection and recovery of tax - **Titaghur Paper Mills Co. Ltd. v. State of Orissa**[14], **Assistant Collector, Central Excise, Chandannagar, West Bengal v. Dunlop India Ltd.**[15] and **State of Goa v. Leukoplast (India) Ltd.**[16].

For the reason aforestated, the writ petition is dismissed leaving

the petitioner free to avail the remedy of appeal in terms of Section 93 of the 2006 Act.

As a sequel to dismissal of the writ petition, WPMP.No.6413 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, C.J.

13th March, 2007

C.V.NAGARJUNA REDDY, J.

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[1] AIR 1961 SC 1506
[2] AIR 1964 SC 1419
[3] AIR 1969 SC 556
[4] AIR 1970 SC 645
[5] AIR 1970 SC 1980
[6] (1972) 4 SCC 379
[7] (1975) 4 SCC 378
[8] AIR 1988 SC 66
[9] (1999) 4 SCC 43
[10] (2001) 6 SCC 634
[11] (2002) 1 SCC 216
[12] (2003) 2 SCC 107
[13] (2004) 3 SCC 553
[14] (1983) 2 SCC 433
[15] (1985) 1 SCC 260
[16] (1997) 4 SCC 82